

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been  
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. <b>CV 11-00914 PSG</b>	DATE FILED <b>2/25/2011</b>	U.S. DISTRICT COURT <b>280 South First Street, Rm 2112, San Jose, CA 95113</b>
PLAINTIFF <b>INGRID AND ISABEL LLC</b>		DEFENDANT <b>LENESHA CAREY</b>
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 <b>7,181,775</b>		SEE ATTACHED COMPLAINT
2 <b>7,676,852</b>		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK  Richard W. Wiekling	(BY) DEPUTY CLERK  Betty Walton	DATE  March 3, 2011
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Copy 1—Upon initiation of action, mail this copy to Commissioner    Copy 3—Upon termination of action, mail this copy to Commissioner  
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner    Copy 4—Case file copy

1 trademark rights.

2 46. Plaintiff is informed and believes, and thereon alleges, that Defendants have gained  
3 profits by virtue of its infringement of Plaintiff's federally recognized trademark rights.

4 47. Plaintiff has also sustained damages as a direct and proximate result of Defendants'  
5 infringement of Plaintiff's federally recognized trademark rights in an amount to be proven at trial.  
6 Plaintiff is likely to suffer irreparable harm from Defendants' infringement of Plaintiff's federally  
7 recognized trademark rights insofar as Plaintiff's invaluable goodwill is being eroded by  
8 Defendants' continuing infringement. Plaintiff lacks an adequate remedy at law to compensate it  
9 for the loss of business reputation, customers, market position, confusion of potential customers and  
10 investors, and goodwill flowing from Defendants' infringing activities.

11 48. Pursuant to 15 U.S.C. § 1116, Plaintiff is entitled to an injunction against  
12 Defendants' continuing infringement of Plaintiff's federally recognized trademark rights. Unless  
13 enjoined, Defendants will continue their infringing conduct.

14 49. Because Defendants' actions have been committed with intent to damage Plaintiff  
15 and to confuse and deceive the public, Plaintiff is entitled to treble its actual damages or  
16 Defendants' profits, whichever is greater, and to an award of costs and, this being an exceptional  
17 case, reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a) and 1117(b). Alternatively,  
18 Plaintiff is entitled to the maximum statutory damages allowed under 15 U.S.C. § 1117(c). Plaintiff  
19 will make its election at the appropriate time before final judgment.

20 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

21 **COUNT III**

22 **Federal Unfair Competition**  
23 **(Lanham Act – Section 43(a))**

24 50. Plaintiff repeats and realleges each of the allegations set forth in Paragraphs 1  
25 through 29, as though fully set forth herein.

26 51. Plaintiff is the owner of the federal and state law rights in the BELLA BAND  
27 trademark.  
28

1           52.     The acts of Defendants complained of herein are likely to cause confusion, to cause  
2 mistake, or to deceive, as to the origin of Defendants' goods, as to an affiliation, connection or  
3 association of Defendants and its goods with Plaintiff and the BELLA BAND trademark, and as to  
4 sponsorship or approval of Defendants' goods by Plaintiff.

5           53.     Defendants' unauthorized use of the BELLA BAND trademark in connection with  
6 maternity products constitutes a commercial use in interstate commerce.

7           54.     Defendants' actions constitute unfair competition, false designation of origin,  
8 palming off, passing off, and false description or representation in violation of Section 43(a) of the  
9 Lanham Act, 15 U.S.C. § 1125(a).

10          55.     Defendants' unlawful acts have caused immediate irreparable harm to Plaintiff and  
11 will continue to cause irreparable harm to Plaintiff unless enjoined.

12          56.     Plaintiff is informed and believes, and thereon alleges, that Defendants have profited  
13 from their unlawful actions and have been unjustly enriched to the detriment of Plaintiff.  
14 Defendants' unlawful actions have caused Plaintiff monetary damage in an amount presently  
15 unknown, but in an amount to be determined at trial.

16                 WHEREFORE, Plaintiff prays for relief as set forth below.

17                         **COUNT IV**

18                                 **False and Misleading Advertising in Violation of**  
19   **Cal. Bus. & Prof. Code §§ 17500 and 17535**

20          57.     Plaintiff repeats and realleges each of the allegations set forth in Paragraphs 1  
21 through 29, as though fully set forth herein.

22          58.     Defendants' use of the BELLA BAND trademark in connection with maternity  
23 products in any advertising device, or any other means, constitutes advertising done with the intent  
24 to directly or indirectly induce the public to enter in to business transactions with Defendants  
25 regarding its goods.

26          59.     Defendants' use of the BELLA BAND trademark in connection with maternity  
27 products has caused, and is likely to continue to cause, confusion, mistake, and deception as to the  
28 affiliation, connection or association of Defendants and Plaintiff, and as to the origin, sponsorship

1 or approval of Defendants' goods by Plaintiff, to Plaintiff's detriment.

2 60. Plaintiff is informed and believes, and thereon alleges, that in making and  
3 disseminating advertising and promotional materials, including the statements alleged herein,  
4 Defendants knew, or by exercise of reasonable care should have known, that the statements were  
5 untrue and/or misleading and so acted in violation of California Business & Professions Code §  
6 17500 and/or § 17535.

7 61. Plaintiff is informed and believes, and thereon alleges, that Defendants' unlawful  
8 activities have resulted in unjust enrichment to Defendants. Plaintiff has been damaged and has  
9 suffered irreparable injury due to Defendants' acts and will continue to suffer irreparable injury  
10 unless Defendants' activities are enjoined.

11 WHEREFORE, Plaintiff prays for relief as set forth below.

12 **COUNT V**

13 **Common Law Trademark Infringement**

14 62. Plaintiff repeats and realleges each of the allegations set forth in Paragraphs 1  
15 through 29, as though fully set forth herein.

16 63. Defendants' unauthorized use of the BELLA BAND trademark in connection with  
17 maternity products in interstate commerce and in the State of California in connection with the  
18 promotion and sale of Defendants' goods constitutes a false designation of origin, a false and/or  
19 misleading description of fact, and/or a false or misleading representation of fact which constitutes  
20 an infringement of Plaintiff's trademark rights, and is likely to cause confusion, and mistake, and/or  
21 deception as to the affiliation, connection or association of Defendants and Plaintiff, and/or as to the  
22 origin, sponsorship or approval of Defendants' goods by Plaintiff all in violation of California  
23 common law.

24 64. Plaintiff has been damaged and has suffered irreparable injury due to Defendants'  
25 acts and will continue to suffer irreparable injury unless said Defendants' activities are enjoined.

26 65. Plaintiff is informed and believes, and thereon alleges, that Defendants' unlawful  
27 activities have resulted in unjust enrichment to Defendants. Plaintiff has suffered and will continue  
28 to suffer damages by reason of Defendants' acts as alleged above and Plaintiff is entitled to recover

1 from Defendants the damages sustained as a result of Defendants' acts.

2 WHEREFORE, Plaintiff prays for relief as set forth below.

3 **COUNT VI**

4 **Unfair Competition In Violation of Cal. Bus. & Prof. Code § 17200**

5 66. Plaintiff repeats and realleges each of the allegations set forth in Paragraphs 1  
6 through 29, as though fully set forth herein.

7 67. Upon information and belief, Plaintiff alleges that Defendants' use of the BELLA  
8 BAND trademark to drive potential customers to Defendants' maternity bands has the effect of  
9 deceiving the public into believing that said Defendants and their products are in some way  
10 associated or affiliated to Plaintiff and/or its products.

11 68. Defendants' conduct, as described above, constitutes an unfair or fraudulent business  
12 practice, in violation of Section 17200 of the California Business and Professions Code.

13 69. Defendants' conduct has proximately caused and will continue to cause Plaintiff  
14 substantial injury and damage.

15 70. Unless enjoined, Defendants' conduct will cause imminent and irreparable injury to  
16 Plaintiff, the amount of which will be difficult to ascertain, if it continues. Plaintiff therefore lacks  
17 an adequate remedy at law.

18 WHEREFORE, Plaintiff prays for relief as set forth below.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff requests entry of judgment in its favor and against Defendants  
21 as follows:

22 A. On Count I, declaring that Defendants have infringed one or more claims of the '775  
23 and '852 Patents;

24 B. On Count I, preliminarily and/or permanently enjoining Defendants and their  
25 officers, agents, servants, employees, and attorneys, and all persons acting in active concert or  
26 participation with them, from further infringing, contributing to, and/or inducing the infringement of  
27 the Patents, in accordance with 35 U.S.C. § 283;

28 C. On Count I, awarding Plaintiff a reasonable royalty in an amount adequate to

1 compensate Plaintiff for Defendants' infringement, in accordance with 35 U.S.C. § 154;

2 D. On Count I, awarding Plaintiff damages in an amount adequate to compensate  
3 Plaintiff for Defendants' infringement, in accordance with 35 U.S.C. § 284;

4 E. On Count I, increasing the damages to three times the amount found or assessed by  
5 virtue of the deliberate and willful nature of Defendants' infringement, in accordance with 35  
6 U.S.C. § 284;

7 F. On Counts II, III, IV, V and VI, preliminarily and/or permanently enjoining  
8 Defendants and their officers, agents, servants, employees, and attorneys, and all persons in active  
9 concert or participation with them, from:

- 10 1. Using the Plaintiff's BELLA BAND trademark, and/or any confusingly  
11 similar designation, in connection with any of Defendants' maternity  
12 products, or otherwise using the BELLA BAND trademark to market,  
13 advertise or identify products or services;
- 14 2. Doing any other act likely to induce the mistaken belief that Defendants or  
15 its products or commercial activities are in any way affiliated, connected  
16 or associated with Plaintiff or its products or services;
- 17 3. Unfairly competing with Plaintiff in any manner whatsoever;
- 18 4. Causing likelihood of confusion and injury to Plaintiff's business  
19 reputation; and
- 20 5. Committing any other act or making any other statement which infringes  
21 or dilutes Plaintiff's trademarks or constitutes an act of infringement,  
22 dilution, unfair competition, or untrue and misleading advertising, under  
23 federal law or the laws of the State of California.

24 G. On Counts I, II and III, requiring Defendants to account for a pay over to Plaintiff,  
25 Defendants' profits and all damages sustained by Plaintiff, as provided for in 15 U.S.C. § 1117(a).

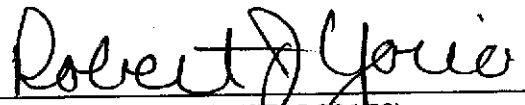
26 H. On Counts II and III, for recovery of treble damages from Defendants as provided  
27 for in 15 U.S.C. §§ 1114 and 1117(b);

28 I. On Count V, for punitive damages according to proof;

- 1 J. On all counts, for actual damages according to proof;  
2 K. On all counts, for statutory damages allowed by statute;  
3 L. On all counts, for interest on all the foregoing amounts, at the legal rate, with effect  
4 from the due date for payment;  
5 M. On all counts, awarding Plaintiff its costs of suit, including reasonable attorneys'  
6 fees; and  
7 N. On all counts, granting such other and further relief as this Court may deem just and  
8 appropriate.

9  
10 Dated: February 24, 2011

CARR & FERRELL LLP

11 By   
12 ROBERT J. YORIO (SBN 93178)  
13 COLBY B. SPRINGER (SBN 214868)  
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15 *Attorneys for Plaintiff*  
16 INGRID & ISABEL, LLC  
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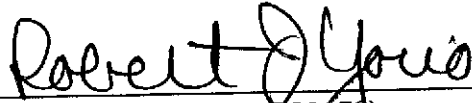
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2 **DEMAND FOR JURY TRIAL**

3 Plaintiff hereby demands trial by jury of all issues so triable.  
4

5 Dated: February 24, 2011

CARR & FERRELL LLP

6  
7 By



8 ROBERT J. YORIO (SBN 93178)  
9 COLBY B. SPRINGER (SBN 214868)  
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8 INGRID & ISABEL, LLC

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA

11  
12 INGRID & ISABEL, LLC, a California  
13 limited liability company,

14 Plaintiff,

15 vs.

16 LENESHA CAREY, an individual;  
17 TUMMY TANKZ, a business entity;  
18 BELLYBANDSFORPREGNANCY.COM,  
a business entity,

19 Defendants.  
20

CASE NO.

**CV11 0914**  
**COMPLAINT FOR PATENT INFRINGEMENT**  
**(U.S. Patent Nos. 7,181,775 and 7,676,852);**  
**FEDERAL TRADEMARK INFRINGEMENT;**  
**FEDERAL UNFAIR COMPETITION IN**  
**VIOLATION OF 15 U.S.C. § 1125(a); FALSE**  
**ADVERTISING IN VIOLATION OF**  
**CALIFORNIA BUSINESS AND PROFESSIONS**  
**CODE §§ 17500 AND 17535; COMMON LAW**  
**TRADEMARK INFRINGEMENT; UNFAIR**  
**COMPETITION IN VIOLATION OF**  
**CALIFORNIA BUSINESS AND PROFESSIONS**  
**CODE § 17200**

**DEMAND FOR JURY TRIAL**

21  
22 Plaintiff Ingrid & Isabel, LLC. ("Ingrid & Isabel" or "Plaintiff") hereby alleges for its  
23 Complaint against defendants LeNesha Carey, Tummy Tankz, and BellyBandsForPregnancy.com  
24 (collectively "Defendants") on personal knowledge as to its own activities and on information and  
25 belief as to the activities of others, as follows:

26 **INTRODUCTION**

27 1. This action is brought by Ingrid & Isabel against Defendants for damages arising out  
28 of, inter alia, Defendants' infringement of U.S. Patent Nos. 7,181,775 (the "775 Patent") and

ORIGINAL  
FILED

FEB 25 2011

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

PSG

1 7,676,852 (the "852 Patent"), (and collectively, "the Patents"). As set forth in detail below, Ingrid  
2 Carney is the sole inventor of Patents, which describe various methods for accommodating the  
3 shape of a woman during pregnancy without the need for a series of different-sized maternity  
4 clothes. Ingrid & Isabel is a California limited liability company and is the present owner of the  
5 entire right, title and interest in the Patents. True and correct copies of the '775 and '852 Patents are  
6 attached hereto as Exhibits "A" and "B", respectively. Defendants are manufacturers and/or  
7 distributors that make, import, offer for sale, sell and/or distribute certain products, including the  
8 Tummy Tankz Maternity Belly Band and BabybeMine Maternity Belly Band ("Belly Band"), that  
9 embody the claimed technology of the Patents.

10 2. This is an action for patent infringement, trademark infringement and unfair  
11 competition in violation of the Lanham Act (15 U.S.C. § 1051 *et seq.*), false advertising and unfair  
12 competition in violation of the California Business and Professions Code, and common law  
13 trademark infringement. This action is brought by Plaintiff in response to Defendants' actions in  
14 making, using, importing, distributing, offering for sale and/or selling certain products in the United  
15 States that infringe the Patents, including, but not limited, to the Belly Band. This action is further  
16 brought by Plaintiff in response to Defendants' adoption and use of Plaintiff's patent, trademark and  
17 other indicia of origin and quality that are confusingly similar and nearly identical to certain of  
18 Plaintiff's federally registered and incontestable trademarks. These federally registered and  
19 incontestable trademarks include U.S. Federal Trademark Registration No. 3,548,598. A true and  
20 correct copy of the BELLA BAND Federal Trademark Registration is attached hereto as Exhibit  
21 "C", and made a part hereof. Defendants' use of confusingly similar and nearly identical  
22 trademarks and other indicia of origin and quality occur in connection with, for example, Belly  
23 Bands sold online in competition with Ingrid & Isabel.

#### 24 **JURISDICTION AND VENUE**

25 3. This Court has jurisdiction over this matter because it is an infringement action  
26 arising under the United States Patent Act (35 U.S.C. § 271 *et seq.*), and Lanham Act (15 U.S.C. §  
27 1051 *et seq.*) pursuant to 15 U.S.C. § 1121. Accordingly, this Court has jurisdiction pursuant to 28  
28 U.S.C. sections 1331 and 1338(a).

1           4.     Plaintiff is informed and believes, and thereon alleges, that Defendants are subject to  
2 personal jurisdiction in this District, because Defendants have caused tortious injury in this District  
3 by acts both inside and outside the District, and regularly solicits business in this District or derive  
4 substantial revenue from sales of goods, including infringing goods in this District, or otherwise  
5 have engaged in a persistent course of conduct in this District.

6           5.     Plaintiff is informed and believes, and thereon alleges, that Defendants knowingly  
7 and purposefully directed their infringing acts to this District, knowing that Plaintiff is a resident of  
8 this District and would suffer injuries in this District. Plaintiff further alleges that Defendants have  
9 made commercial use of Plaintiff's website and trademark. Defendants willfully, deliberately and  
10 knowingly used Plaintiff's trademark for the purpose of promoting Defendants' business in  
11 competition with Plaintiff.

12           6.     Venue for this action is proper in this Court pursuant to 28 U.S.C. sections 1391 and  
13 1400 because a significant portion of the Defendants' allegedly infringing activities are believed to  
14 have occurred in this District.

#### 15                               **INTRA-DISTRICT ASSIGNMENT**

16           7.     For the purposes of Civil L.R. 3-2(c) and (d), this Intellectual Property action may be  
17 assigned to any division of this District.

#### 18                               **THE PARTIES**

19           8.     Plaintiff is a California limited liability company with its principal place of business  
20 in San Francisco, California.

21           9.     Plaintiff has marketed and sold its well-known Bella Band maternity bands in  
22 interstate commerce since November 2003. Plaintiff's Bella Band maternity bands have obtained  
23 widespread commercial success in the maternity clothes market and consumers have come to know  
24 and associate the Bella Band maternity bands with Plaintiff.

25           10.    Plaintiff is informed and believes, and thereon alleges, that Defendant LeNesha  
26 Carey is an individual residing in Goodyear, Arizona. Plaintiff is further informed and believes,  
27 and thereon alleges, that Defendant Carey distributes imports, sells and/or offers for sale in the  
28 United States maternity wear, including the Belly Band product.

11. Plaintiff is informed and believes, and thereon alleges, that Defendant Tummy Tankz is a business entity which has its principal place of business in Goodyear, Arizona. Plaintiff is further informed and believes, and thereon alleges, that Defendant Tummy Tankz distributes, imports, sells and/or offers for sale in the United States maternity wear, including the Belly Band product.

12. Plaintiff is informed and believes, and thereon alleges, that Defendant BellyBandsForPregnancy.com is a business entity which has its principal place of business in Goodyear, Arizona. Plaintiff is further informed and believes, and thereon alleges, that Defendant BellyBandsForPregnancy.com distributes, imports, sells and/or offers for sale in the United States maternity wear, including the Belly Band product

## GENERAL ALLEGATIONS

### Plaintiff's Patents

13. Ingrid Carney is the sole inventor of the '775 Patent, issued on February 27, 2007, entitled "Maternity Garment" and Plaintiff is the assignee of all right, title and interest in the '775 Patent.

14. Ingrid Carney is the sole inventor of the '852 Patent, issued on March 16, 2010, entitled "Maternity Garment," and Plaintiff is the assignee of all right, title and interest in the '852 Patent.

15. The Patents generally concern accommodating the shape of a woman during pregnancy without the need for a series of different-sized maternity clothes. The Patents describe, in part, the use of a flexible band that is worn around the torso and allows for pants or skirts that would otherwise be too tight to be worn without requiring them to be fastened around the waist. The Patents also describe, in part, the use of a flexible band that is worn around the torso that allows for clothes that would otherwise be too loose and/or large to be worn.

### **Defendants' Unlawful Conduct Relating To The Patents**

16. Plaintiff is informed and believes, and thereon alleges, that Defendants make, use, import, distribute, offer for sale and/or sell certain products in the United States that infringe the Patents, including, but not limited, to the Belly Band, as well as other maternity products which

1 may be further identified during the course of discovery.

2 17. Like Plaintiff's Bella Band, Defendant's Belly Band product is a clothing accessory  
3 that allows women to minimize the amount of different-sized clothes needed during the course of  
4 pregnancy. Similarly, Defendant's Belly Band product is a flexible band that is worn around the  
5 torso.

6 18. Plaintiff provided copies of the Patents to Defendants by written notice on December  
7 2, 2010. Despite such notice, Plaintiff is informed and believes, and thereon alleges, that  
8 Defendants have been, and continue to be, willfully infringing the Patents from December 2, 2010,  
9 forward.

10 **Plaintiff's BELLA BAND Trademark**

11 19. Continuously since in or about July 2003, Plaintiff has used the mark BELLA  
12 BAND to identify its maternity waist bands and to distinguish them from those made and sold by  
13 others, by, among other things, prominently displaying the mark BELLA BAND on the goods, their  
14 containers and the displays associated therewith. In addition, Plaintiff has prominently displayed  
15 said mark on store fronts, letterheads, bills, direct mail advertising, telephone directory advertising,  
16 internet marketing, and in periodicals distributed throughout the United States.

17 20. Over the years, Plaintiff has invested significant amounts of money and resources in  
18 advertising and promoting the BELLA BAND brand and, as a result, the BELLA BAND trademark  
19 has become widely known, is distinctive, and is a valuable asset of Plaintiff.

20 21. The BELLA BAND trademark is federally protected as a registered federal  
21 trademark Reg. No. 3,548,598 and is protected under federal and state unfair competition laws from  
22 the date of the adoption and first use thereof in or about July 2003.

23 **Defendants' Unlawful Conduct Relating To The BELLA BAND Trademark**

24 22. Notwithstanding Plaintiff's well known prior rights in its BELLA BAND trademark,  
25 Plaintiff is informed and believes, and thereon alleges, that Defendants have represented the  
26 BELLA BAND as its own or have claimed an affiliation of some type with Plaintiff and its BELLA  
27 BAND trademark.  
28

1           23. Defendants are not, nor have they ever been, authorized by Plaintiff to use any  
2 trademark containing the words BELLA BAND.

3           24. Plaintiff is informed and believes, and thereon alleges, that Defendants are willfully  
4 attempting to trade upon and usurp the considerable goodwill associated with Plaintiff's BELLA  
5 BAND trademark by representing Defendants' product as the BELLA BAND or sponsored by  
6 Plaintiff in some way. The effect of Defendants' conduct, therefore, has been to misappropriate the  
7 goodwill associated with the BELLA BAND trademark and to improperly lure potential customers  
8 of the BELLA BAND to Defendants' maternity products, all to the detriment of Plaintiff.

9           25. Defendants' use of the BELLA BAND mark in connection with its maternity bands  
10 is likely to cause confusion, to cause mistake, and to deceive consumers as to the source of said  
11 Defendants' maternity bands, as to Plaintiff's sponsorship or approval of the Defendants' maternity  
12 bands, and as to an affiliation, connection or association between Plaintiff and Defendants.

13           26. Defendants' use of the BELLA BAND mark in connection with its maternity bands  
14 conveys the false impression that its maternity bands emanate from or are endorsed by Plaintiff or  
15 are affiliated with Plaintiff.

16           27. Prior to selling its maternity bands in connection with the BELLA BAND mark,  
17 Plaintiff is informed and believes, and thereon alleges, that Defendants had actual notice of  
18 Plaintiff's prior trademark rights in the BELLA BAND mark.

19           28. Defendants' use of the BELLA BAND mark in connection with sales of its maternity  
20 bands has caused, and continues to cause, damage to Plaintiff's trademark.

21           29. Defendants' unlawful activities have resulted in unjust enrichment to Defendants and  
22 immediate irreparable harm to Plaintiff. If Defendants' unlawful activities are not immediately  
23 enjoined, Defendants will continue to be unjustly enriched and will continue to irreparably harm  
24 Plaintiff. Plaintiff has no adequate remedy at law.

25           WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

26 ///

27 ///

28 ///

**COUNT I**

**Infringement of U.S. Patent No. 7,181,775 and U.S. Patent No. 7,676,852**

30. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 29, as though fully set forth herein.

31. Plaintiff is informed and believes, and thereon alleges, that Defendants make, use, import, distribute, offer for sale and/or sells the Belly Band product and possibly other products that infringe the Patents, and will continue to do so unless enjoined by this Court.

32. Plaintiff is informed and believes, and thereon alleges, that Defendants' conduct in making, using, importing, distributing, offering for sale and/or selling the Belly Band product and possibly other infringing products constitutes an infringement of Plaintiff's rights under the Patents.

33. Plaintiff is informed and believes, and thereon alleges, that Defendants actively induce others to infringe, and/or commit acts of contributory infringement of one or more claims of the Patents, through its activities related to making, using, importing, distributing, offering for sale and/or selling the Belly Band product and possibly other infringing products, all in violation of 35 U.S.C. § 271.

34. Plaintiff has been damaged by Defendants' infringing conduct, and Defendants are therefore liable to Plaintiff for actual damages suffered by them, and any profits realized on the sale of the Belly Band product and possibly other infringing products, which are not taken into account in the computation of actual damages, as well as any statutory damages, such as treble damages. Moreover, such conduct is likely to cause substantial harm to Plaintiff, unless the Court enjoins the infringing conduct.

35. Plaintiff is informed and believes, and thereon alleges, that Defendants' infringement of the Patents has been, and continues to be, deliberate and willful.

WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

///

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///

///

**COUNT II**

**FEDERAL TRADEMARK INFRINGEMENT  
(35 U.S.C. § 1114(a))**

36. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 29, as though fully set forth herein.

37. Plaintiff owns federally registered trademark number 3,548,598 for BELLA BAND, a copy of which is attached hereto as Exhibit C.

38. Plaintiff has never consented to Defendants' use of the BELLA BAND mark.

39. Defendants, at all relevant times, have had either actual notice and knowledge or constructive notice of Plaintiff's ownership and rights in the BELLA BAND mark and subsequent registration.

40. Defendants' unauthorized use of Plaintiff's BELLA BAND mark has caused confusion, deception, and mistake among consumers, vendors, and investors as to the origin, sponsorship, or approval of certain goods and services bearing the BELLA BAND mark or sold under the BELLA BAND name.

41. Defendants' unauthorized use of Plaintiff's BELLA BAND mark will continue to cause or is likely to cause confusion, deception, and mistake among consumers, vendors, and investors as to the origin, sponsorship, or approval of certain goods and services bearing the BELLA BAND mark or sold under the BELLA BAND name.

42. Defendants' unauthorized use of Plaintiff's BELLA BAND mark has caused confusion or mistake as to any affiliation, connection, or association between Plaintiff and Defendants.

43. Defendants' unauthorized use of Plaintiff's mark will continue to cause or is likely to cause confusion or mistake as to any affiliation, connection, or association between Plaintiff Defendants.

44. Defendants' actions constitute a violation of 15 U.S.C. § 1114(a).

45. Plaintiff is informed and believes, and thereon alleges, that Defendants' actions have been and continue to be intentional, willful, and without regard for Plaintiff's federally recognized